



MEMORANDUM

TO: Trinidad Planning Commission

FROM: Trever Parker, City Planner

DATE: July 6, 2007

RE: Accessory Dwelling Units (ADUs)

As a reminder, this item was discussed at the May meeting earlier this year. I have copied a bit of information from a memo I wrote for the May agenda regarding ADUs below. At the May 16, 2007 meeting, the Planning Commission directed staff to put together a sample ordinance for the Planning Commission review for revision and eventual adoption. At that meeting I provided you with the current State regulations, an ordinance from the City of Blue Lake as an example of a fairly restrictive ordinance and Trinidad's existing regulations.

Currently, Trinidad Zoning Regulations are not in compliance with State Laws encouraging second units. Trinidad's Zoning Ordinance basically prohibits them based on density requirements. State Law does not allow ADUs to be regulated based on density. Note that second units are only explicitly allowed in the Suburban Residential (SR) Zone in Trinidad. Guest houses, as defined the Zoning Ordinance (§17.08.340), do not have a kitchen and can not be continuously occupied. Servant's Quarters (§17.08.590) can have a kitchen, but must be occupied by an employee of the property owner who takes care of the property.

First of all, because the State regulations are somewhat difficult to understand and read through, I would like to provide you a summary of what the City can and can not regulate in terms of second units. Also, if the City does not adopt its own ordinance, then it is required to utilize the State standards as follows:

- (A) The unit is not intended for sale and may be rented.
- (B) The lot is zoned for single-family or multifamily use.
- (C) The lot contains an existing single-family dwelling.
- (D) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.
- (E) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.
- (F) The total area of floorspace for a detached second unit shall not exceed 1,200 square feet.
- (G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.
- (H) Local building code requirements which apply to detached dwellings, as appropriate.

- (I) Approval by the local health officer where a private sewage disposal system is being used, if required.
- A local agency may also require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

The City can not:

- Restrict ADU's based on residential density requirements
- Preclude ADUs within residential zones unless specific findings are made acknowledging the limitation of regional housing and regarding the significant impacts to public health, safety and welfare.
- Require more than one parking space per unit or bedroom, unless specific findings are made; parking shall be allowed in setbacks or in tandem (one behind another).

The City can:

- Limit them to certain geographical areas of the City based on (but not limited to) such things as adequate sewage / water capabilities and traffic impacts.
- Include standards such as parking, height, setback, lot coverage, design review, max size and historic resource protection that are applicable to residential development in general
- Require the ADU to meet certain standards, including:
 - ADU will not be sold separately and may be available for rental
 - The lot is zone residential (single or multi-family)
 - The lot contains an existing residence
 - Must be located on the same lot as the main residence, attached or detached
 - Maximum floor area / occupancy
 - Meet zoning requirements applicable to other residences (setbacks, height limits, lot coverage, architectural review, site plan review, fees, etc.)
 - Meet building code requirements
 - Meet sewage disposal requirements
 - Require an owner-occupant (of one or the other residence)
- Charge fees to cover the costs of review
- Require that ADUs be only a certain percentage of the size of the primary residence.
- Provide for maximum or minimum sizes, provided that at least an efficiency unit is allowed, which is defined by CA Health and Safety Code (17958.1):
efficiency units for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or bathroom facilities, as specified by the ordinance.

One of the important things to consider in adopting this ordinance is that ADU's can not be considered discretionarily and must be approved ministerially. This means that the City does not have discretion in approving them, as long as they meet all the standards in whatever ordinance is adopted. Although architectural review (such as our Design Review process) is still applicable, it also has to be approved ministerially according to objective design standards, which we do not have. This means that once the Planning Commission, City Council and Coastal Commission approve and adopt this ordinance, the Planning Commission is not going to see any second unit applications. They will be approved according to the City's standards by the City Planner.

Trinidad is a little different because it is in the Coastal Zone. The State regulations state that they do not supersede the Coastal Act except that no public hearings are required for Coastal Development Permits. A clarification letter provided by the Executive Director of the Coastal Commission states that all standards of a certified LCP are still applicable except for the public hearing requirement (although the public noticing requirements are still in effect). Our LCP has been certified with the density restriction, which based on the above mentioned letter, is actually still effective and valid at this point. Whatever route the City takes with this new ordinance will have to be certified by the Coastal Commission before it takes effect, which means that issues such as public access and view protection will still have to be considered.

Just to note, I did not forget Kathy's email and presentation regarding the Regional Community Development Funding Workshop she attended. I did check out the CA Dept. of Housing and Community Development's funding webpage, and I did not see any grants that would be applicable, or that Trinidad would qualify for. I think it would be helpful to get some input on our ordinance once we have it drafted.

The main impetus for these new State regulations, is to not only provide additional housing within already developed areas, but to provide for affordable housing. That is the reason for the owner-occupied requirement that is allowed by the State and which many cities use. A memorandum from the Dept. of Housing and Community Development to planning departments emphasizes that ADU ordinances must encourage second units. I believe that this new ordinance must be carefully considered up front, because there will be no ability to decide individually on future ADU applications. Because of the use of OWTS in Trinidad and some of the unique neighborhood characteristics, I think the City can justify a strict ordinance. For example, Trinidad has long standing policies and regulations that protect both public and private views, which will be difficult to incorporate into a ministerial review process. Photographic evidence has been required as part of an ADU application submittal.

I have drafted an ordinance as a starting point for the Planning Commission review and eventual recommendation to the City Council. I utilized an ordinance from Pacific Grove as the basis, and incorporated elements from Blue Lake's ordinance as well as Livermore and Santa Rosa ordinances. I have copies of all these ordinances and will make them available upon request. For this ordinance, I think it will be most helpful to consider real situations in developing it. The Sterling property that was reviewed last week would be a good example. There are others in town that I can think of and I'm sure you know of others as well. Because there will be no individual review in the future, these case examples will help the Planning Commission make careful consideration of the proposed regulations. I also think that it would be valuable to do some sort of informational campaign to let as many people as possible know about this ordinance during these public hearings, since this will be their only chance to comment.

CHAPTER 17.54

ACCESSORY DWELLING UNITS

Section 17.54.010 – PURPOSE AND INTENT

The city recognizes the importance of a suitable living environment for all residents. The State Legislature has declared that accessory dwelling units (ADUs) are a valuable form of housing in California. It is the intent of the city to permit ADUs, in conformance with state law, subject to standards that will ensure the units contribute to a suitable living environment for all residents. The purpose is to provide an flexibility in housing options, an opportunity for the development of small rental units, to provide relatively affordable housing for low- and moderate-income individuals and families, to provide economic support for resident property owners and to provide rental units for the elderly or disabled while still maintaining the small town, residential character of the City.

Section 17.54.020 – DEFINITIONS

- A. "Accessory dwelling unit" or ADU means any residential dwelling unit which provides complete independent living facilities on the same building site as a legal single-family residence, including permanent provisions for living, sleeping, cooking, eating, and sanitation, as defined in Government Code Section 65852.2(i)(4).
- B. "Primary unit" means the primary, existing legal single-family residential dwelling unit which provides complete independent living facilities for one or more persons.

Section 17.54.030 – LOCATION

One ADU may be located on any residentially zoned site which either contains a primary unit or which is undeveloped, but there is a concurrent application for a primary unit. ADUs are not required to meet the density requirements of the General Plan or zoning ordinance. A detached ADU is not considered an accessory building or accessory use.

Section 17.54.040 – PERMITTING PROCEDURES

- A. Any application for a ADU that meets all the location and development standards contained in this chapter shall be approved ministerially without discretionary review or public hearing.
- B. A use permit shall be required in accordance with Chapter 17.72 of the Trinidad Zoning Ordinance for establishment of an ADU which does not meet all the development standards contained in this chapter.

Section 17.54.050 – PERMITTING PROCEDURES

- A. Step One – Submittal. The application package for an ADU permit shall be submitted to the City concurrent with the submittal of an application for building permit. In addition to the standard submittal requirements for a building permit, the ADU application package shall include:
 - 1. Site Plan (drawn to scale): Dimension the perimeter of parcel on which the ADU will be located. Indicate the location and dimensioned setbacks of all existing and proposed structures on the project site and all structures located within 100' of the project property. Include all easements, utilities, building envelopes, trees, and features in the adjacent public right-of-way. Include an estimate and direction of slope.

2. Floor Plans: Each room shall be dimensioned and the resulting floor area calculation included. The use of each room shall be identified. The size and location of all windows and doors shall be clearly depicted.
 3. Elevations: North, south, east and west elevations which show all openings, exterior materials and finishes, original and finish grades, and roof pitch for the existing residence and the proposed ADU.
 4. Cross Section: Provide building cross sections including, but not limited to: structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor-to-ceiling heights.
 5. Color photographs of the site and adjacent properties: At least one photo photos shall be taken from each of the property lines of the project site to show the project site and adjacent sites. Photos should be taken from the line of site from adjacent structures and public viewing point(s). Label each photograph and reference to a separate site plan indicating the location and direction of the photograph.
 6. Deed Restriction: Completed as required, signed and ready for recordation.
 7. OWTS: Approval from the Health Department in a form approved by the City that the existing OWTS is sufficient to accommodate the proposed project or an approved Sewage Disposal Permit from the Health Department for a new or upgraded OWTS sufficient to serve the proposed project.
 8. Fee: A permit application fee in the amount established from time to time by resolution of the City Council.
- B. Step Two – Issuance. The City Planner shall only issue an ADU permit if the application conforms to all the specific standards contained in Section 17.54.060 and only after making the following findings. The decision of the community development director is final and is **not** subject to appeal.
1. The ADU is compatible with the design of the main unit and the surrounding neighborhood in terms of landscaping, scale, height, length, width, bulk, lot coverage, and exterior treatment, and will not cause excessive noise, traffic, or other disturbances to the existing neighborhood or result in significantly adverse impacts on public services and resources.
 2. The ADU will not tend to change the character or cause a concentration of such units sufficient to change the characteristic of the residential neighborhood in which it is located.
 3. The ADU is consistent with the Trinidad Zoning Ordinance and policies of the General Plan, including that it will not cause significant blockage of coastal views from public viewing points and has been designed to minimize view blockage from adjacent residences.
 4. The ADU meets all the development standards set forth in §17.54.060.

Section 17.54.060 – DEVELOPMENT STANDARDS

An ADU permit will be issued only it complies with all the following development standards:

- (a) Existing Development: A single-family dwelling must exist on the site or shall be constructed on the site in conjunction with the construction of the ADU.
- (b) Number per Building Site: A maximum of one ADU shall be permitted on any one parcel or lot. ADU's may not be permitted on residential lots already having two or more dwelling units thereon.
- (c) Lot Area: An ADU shall not be allowed on lots that are less than 75% of the minimum required lot size.
- (c) Unit Size: The second unit must be either attached to the primary unit and located within the living area of the primary unit, or detached from the primary unit and located on the same

lot as the primary unit. The floor area of an attached second unit shall not exceed 30% of the existing living area of the primary unit or 600 square feet, whichever is less, except that a minimum size of 150 sq. ft. shall be allowed. The total area of floor space of a detached second unit shall not exceed 600 square feet.

- (d) Setbacks: The setback requirements of the zoning district in which the ADU is located shall apply; however, ADUs may be permitted in legally constructed structures located within required rear and side setbacks. A detached ADU shall be at least ten feet from any building on the same site.
- (e) Height: An attached ADU shall comply with the height limit applicable to the zoning district in which it is located. A detached ADU shall be no greater than 15 feet in height. ADUs over garages...
- (f) Lot Coverage and Floor Area: An ADU shall be included in the lot coverage and floor area requirements applicable to the site. Floor area is measured to the outside surface of exterior walls the walls of the living space. Total floor area of both units shall not exceed 2,600 sq ft. or 30% floor-to-area ratio and 25% lot coverage.
- (g) Off-street Parking: The ADU shall provide one off-street parking space per bedroom. The parking spaces may be covered or uncovered. At least one parking space must be of standard size; additional parking spaces may be compact. Required parking may be located within required setbacks, and can be tandem to garage spaces, but must not block required parking other than garage spaces.
- (h) Permanent Foundation: A permanent foundation shall be required for all ADUs.
- (i) Architectural Compatibility:
 - (1) The ADU shall incorporate the same or similar architectural features and building materials as the main dwelling unit or dwellings located on adjacent properties and shall be consistent with the city of Pacific Grove *Architectural Review Guidelines for Single-Family Residences*.
 - (2) Any exterior alteration or addition to a dwelling on the Historic Resources Inventory shall be consistent with the Secretary of the Interior's *Standards and Guidelines*.
- (j) Utilities. All utilities for detached units shall be installed underground. All ADUs shall have separate utility meters from the primary residence.
- (k) Onsite Wastewater Treatment System (OWTS): Prior to issuance of a building permit, the applicant shall submit certification by the Health Department, that the existing OWTS is of adequate size and condition to support projected sewage flow for the primary unit and ADU. If the capacity or condition of the existing OWTS is found to be inadequate to serve the existing and proposed units on the property, OWTS shall be replaced or upgraded to meet current standards, at the expense of the applicant.
- (l) Accessibility. All newly constructed first-floor ADUs shall be adaptable for use by persons with ADA-defined disabilities as follows:
 - (1) The bathroom shall provide minimum clearances as specified for accessible units per California state accessibility requirements, and grab bar blocking shall be installed in the walls.
 - (2) Entry doors shall have a minimum width of three feet.
 - (3) Interior doors shall have a minimum width of 2 feet 10 inches
 - (4) Thresholds shall meet California state accessibility requirements
 - (5) The kitchen shall meet the minimum clearances specified in the California state accessibility requirements
- (m) Occupancy.

- (1) The principal place of residence of the property owner shall be either the ADU or the primary unit.
- (2) Occupancy of the unit not occupied as the principal place of residence by the owner shall meet at least one of the following criteria:
 - (i) Occupant(s) shall qualify as no greater than a median income household according to HUD income level guidelines, as determined by the community development director. Rent charges shall not exceed 30% of median or below median income levels as determined annually by HUD.
 - (ii) No rent or other consideration is asked, required or paid as a condition of occupancy.
- (3) Occupancy of an ADU is limited to two persons.

Section 17.54.070 – DEED RESTRICTIONS

Before obtaining an ADU building permit, the property owner shall file with the county recorder a declaration or an agreement of restrictions, which has been approved by the city attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

- (a) The ADU shall not be sold separately.
- (b) The ADU shall be considered legal and available for occupancy only so long as either the primary residence or the ADU is occupied by the owner of record of the property.
- (c) Occupancy of the unit not occupied as a principal place of residence by the owner shall meet at least one of the following criteria:
 - (1) Occupant(s) shall qualify as no greater than a median income household according to HUD income level guidelines, as determined by the community development director. Rent charges shall not exceed 30% of median or below median income levels as determined annually by HUD.
 - (2) No rent or other consideration is asked, required or paid as a condition of occupancy.
- (d) Occupancy of the ADU is limited to two persons.
- (e) The property owner agrees to an annual certification by the community development department to ensure that the provisions of the ADU ordinance are being complied with. The property owner agrees to pay a fee as prescribed by council resolution to cover the cost of this certification.
- (f) In obtaining this permit the property owner understands and acknowledges that the city of Trinidad has the right to enter and inspect for compliance with the rules and regulations enforced by the city. The property owner acknowledges that right and agrees to pay all costs incurred by the city in securing any judicial writ or inspection warrant to fulfill that right if the property owner fails to give consent for inspection. Said costs shall include all personnel time, attorney fees and the court cost incurred by the city to procure any judicial writ or inspection warrant.
- (g) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.

Section 17.54.080 – ANNUAL CERTIFICATION

The City Planner and / or Building Official shall provide for annual owner certification that all provisions of this chapter and all conditions attached to the specific approval are being complied with. The council may, by resolution, provide for fees to cover the cost of certification.